

Transcript of Travis Burnett, Corporate Designee & Individually 1 (1 to 4)  
Conducted on April 12, 2024

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

USA FOOTBALL, INC.,  
Plaintiff,  
VS.  
FFWCT, LLC; USA FLAG, LLC;  
AND TRAVIS BURNETT,  
Defendants.

CIVIL ACTION NOS.:  
4:23-CV-00465  
and 4:23-CV-00561-ALM

ORAL AND VIDEOTAPED DEPOSITION OF  
FFWCT, LLC AND USA FLAG, LLC  
BY AND THROUGH ITS DESIGNATED REPRESENTATIVE  
TRAVIS BURNETT  
APRIL 12, 2024

ORAL AND VIDEOTAPED DEPOSITION OF TRAVIS BURNETT,  
produced as a witness at the instance of the Plaintiff,  
and duly sworn, was taken in the above-styled and  
numbered cause on April 12, 2024, from 9:13 a.m. to  
5:41 p.m., before Kim A. McCann, CSR in and for the State  
of Texas, reported by machine shorthand, at the offices  
of Scheef & Stone, LLP, 2600 Network Blvd., Suite 400,  
Frisco, Texas, pursuant to the Federal Rules of Civil  
Procedure.

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A P P E A R A N C E S

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| <p>105</p> <p>1 this time, in the fall of 2019, they were</p> <p>2 transitional to Reigning Champs to start the 2020</p> <p>3 program. Our league wasn't until 2020, but we</p> <p>4 have marketing in in 2019.</p> <p>5 So I reached out to USA Football. I</p> <p>6 reached out to Izell Reese. They directed me to</p> <p>7 Izell Reese because they weren't going to be</p> <p>8 operating the program in the spring. Izell Reese</p> <p>9 with Reigning Champs specifically emailed me and</p> <p>10 said, This is the only logo we have. You would</p> <p>11 have to use this on your flier for promotion</p> <p>12 because, I guess -- I'm assuming they had not</p> <p>13 developed their own yet. But this was the</p> <p>14 official NFL Flag logo at the time for an</p> <p>15 officially NFL Flag-sanctioned league that we</p> <p>16 were going to promote.</p> <p>17 Q. Okay. So a couple of questions on</p> <p>18 that. When you say they were transitioning, is</p> <p>19 that the NFL was transitioning --</p> <p>20 A. Yes, I believe so. NFL Flag program</p> <p>21 was transitioning from USA Football operating it</p> <p>22 to Reigning Champs. Sorry.</p> <p>23 Q. Okay. And so you asked Mr. Reese for</p> <p>24 the 2020 branding for NFL Flag, and this is what</p> <p>25 he provided to you.</p> | <p>107</p> <p>1 Q. Okay.</p> <p>2 A. Nobody from USA Football officially</p> <p>3 approved this that I got permission from because</p> <p>4 I did not realize that I needed that at the time.</p> <p>5 Q. Okay. And then the only other</p> <p>6 question I have on this, there's some -- if we go</p> <p>7 to the front page, there's some language that</p> <p>8 starts and it's in red type and it goes on to the</p> <p>9 next page.</p> <p>10 A. Okay.</p> <p>11 Q. Is -- where did you get this language</p> <p>12 that's in red?</p> <p>13 A. I believe we used LegalZoom to file</p> <p>14 this application, and I submitted, the way I</p> <p>15 remember, my best efforts at writing a</p> <p>16 identification -- whatever this is, and they</p> <p>17 tweaked it on -- with some input on their behalf</p> <p>18 as well.</p> <p>19 Q. Is they AI or a human?</p> <p>20 A. It would -- I don't know the answer</p> <p>21 to that. It could have been LegalZoom support or</p> <p>22 whoever's on LegalZoom's side.</p> <p>23 Q. Okay. Is it -- as you sit here</p> <p>24 today, do you know that this language in red is</p> <p>25 identical to ours except for it says "flag" every</p> |
| <p>106</p> <p>1 Is that -- do I understand that</p> <p>2 correctly?</p> <p>3 A. I believe the exact way that it was,</p> <p>4 I submitted this flier and asked him if he had</p> <p>5 another logo that they wanted me to use, and he</p> <p>6 said they did not and to use this.</p> <p>7 Q. And this logo that we're looking at</p> <p>8 in the lower right corner, is this all one image,</p> <p>9 the NFL Flag and then the football and the</p> <p>10 USA Football next to it, or are those two images</p> <p>11 that are placed separately but adjacent to one</p> <p>12 another?</p> <p>13 A. I believe this is all one image.</p> <p>14 This is what I was told to use.</p> <p>15 Q. By whom?</p> <p>16 A. Or this was all approved to use by</p> <p>17 Izell Reese. That's all I know.</p> <p>18 Q. Okay. So Izell approved the use of</p> <p>19 this flier; correct?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. And did anybody approve use of this</p> <p>22 flier in this application?</p> <p>23 A. From who?</p> <p>24 Q. Anybody.</p> <p>25 A. I did.</p>   | <p>108</p> <p>1 time it says "football"?</p> <p>2 A. I did not, no.</p> <p>3 Q. You've never seen a side-by-side of</p> <p>4 your language and our language?</p> <p>5 A. I have not, no, ma'am.</p> <p>6 Q. Okay. So when you generated this</p> <p>7 text, you weren't sitting there with our</p> <p>8 application and just --</p> <p>9 A. I would not.</p> <p>10 Q. -- typing it?</p> <p>11 So it's a total coincidence that this</p> <p>12 exact list is identical to our exact list?</p> <p>13 A. I don't know if it's coincidence or</p> <p>14 not, but I do know that I submitted my effort,</p> <p>15 they tweaked it, and this is what they basically</p> <p>16 said, Do you want to go with this, and I said,</p> <p>17 Yes, to my knowledge. I don't remember anything</p> <p>18 else.</p> <p>19 Q. And they --</p> <p>20 A. I don't know where they would have</p> <p>21 gotten the information.</p> <p>22 Q. Sorry. And they is LegalZoom?</p> <p>23 A. LegalZoom, yes, ma'am.</p> <p>24 Q. Okay. Number 33 should be already in</p> <p>25 your stack. This is USAFB 69, the Event</p>   |

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| <p>109</p> <p>1 Collaboration Agreement between at this -- now</p> <p>2 we've gotten the shortened name, FFWCT and</p> <p>3 USA Football.</p> <p>4 Do you recognize this document?</p> <p>5 <b>A. Yes, ma'am.</b></p> <p>6 Q. What was the point of the Event</p> <p>7 Collaboration Agreement?</p> <p>8 <b>A. At this point this was our second</b></p> <p>9 <b>agreement where we were more or less discussing</b></p> <p>10 <b>them -- their ability -- USA Football's ability</b></p> <p>11 <b>to activate at our events and scout for their</b></p> <p>12 <b>National Team program primarily.</b></p> <p>13 Q. How did that go?</p> <p>14 <b>A. I think it went fine. We -- for the</b></p> <p>15 <b>most part. I mean, they -- we were with each</b></p> <p>16 <b>other for the first -- I mean, the entire year.</b></p> <p>17 <b>They wanted to continue scouting at our events,</b></p> <p>18 <b>we just didn't have a formal agreement after this</b></p> <p>19 <b>one concluded. And we had our -- we definitely</b></p> <p>20 <b>had some issues, but I think it was all in all,</b></p> <p>21 <b>they scouted. They were successful. I think</b></p> <p>22 <b>both of our -- it was fine otherwise.</b></p> <p>23 Q. Is this one of the years where they</p> <p>24 got double gold?</p> <p>25 <b>A. This would have been 2021, so I</b></p> | <p>111</p> <p>1 <b>Across all forms of American football including</b></p> <p>2 <b>tackle and flag.</b></p> <p>3 Q. And what did national governing body</p> <p>4 mean to you at this -- we talked about what it</p> <p>5 meant to you in -- in 2017.</p> <p>6 What did -- what did "national</p> <p>7 governing body" mean to you here in 2021?</p> <p>8 <b>A. In 2021 I -- I still did not fully</b></p> <p>9 <b>understand the qualification needed to become a</b></p> <p>10 <b>national governing body. And all I knew that</b></p> <p>11 <b>USA Football had been advertising them self the</b></p> <p>12 <b>national governing body, so I assumed that it was</b></p> <p>13 <b>true.</b></p> <p>14 Q. Does -- at this time in 2021, was</p> <p>15 flag football an Olympic sport?</p> <p>16 <b>A. No, ma'am.</b></p> <p>17 Q. So there wouldn't have been a</p> <p>18 certified national governing body, do we agree</p> <p>19 about that?</p> <p>20 <b>A. At this time, correct, I would agree.</b></p> <p>21 Q. Then this paragraph 4 -- 4(c) is the</p> <p>22 paragraph that talks about your -- you're</p> <p>23 stopping using USA Flag during the term of the</p> <p>24 agreement.</p> <p>25 Do you see that?</p>   |
| <p>110</p> <p>1 <b>believe so. I believe this was Israel where</b></p> <p>2 <b>they -- I think they won double gold.</b></p> <p>3 Q. And in this agreement there are</p> <p>4 references to the fact that USA Football is the</p> <p>5 governing body.</p> <p>6 Do you remember that?</p> <p>7 <b>A. I don't remember, but if you could</b></p> <p>8 <b>find it, I --</b></p> <p>9 Q. Sure. It's on page 690. I should</p> <p>10 have done that to begin with.</p> <p>11 <b>A. Okay.</b></p> <p>12 Q. Paragraph 4(b), FFWCT acknowledges</p> <p>13 USAFB's role as football's national governing</p> <p>14 body across all forms of American football</p> <p>15 including tackle and flag football.</p> <p>16 <b>A. Okay.</b></p> <p>17 Q. Do you see that?</p> <p>18 <b>A. I do.</b></p> <p>19 Q. What -- what did you understand that</p> <p>20 provision to mean at this time?</p> <p>21 <b>A. That USA Football was telling us that</b></p> <p>22 <b>they were the national governing body for</b></p> <p>23 <b>football.</b></p> <p>24 Q. Including flag?</p> <p>25 <b>A. Yes, including flag, I would imagine.</b></p>   | <p>112</p> <p>1 <b>A. Yes, ma'am.</b></p> <p>2 Q. What's your understanding about</p> <p>3 before this agreement was entered whether there</p> <p>4 were any legal risks to you for using USA Flag?</p> <p>5 <b>A. Prior to this, I think USA Football</b></p> <p>6 <b>had sent us a cease-and-desist in 2020, which is</b></p> <p>7 <b>actually what led to this agreement. So I</b></p> <p>8 <b>understood that USA Football did not want us to</b></p> <p>9 <b>use the USA Flag name. But we'd also had many</b></p> <p>10 <b>discussions where we reiterated that we did not</b></p> <p>11 <b>feel like that their desire was accurate. We</b></p> <p>12 <b>just disagreed.</b></p> <p>13 <b>But instead of resorting to legal</b></p> <p>14 <b>matters at the time, I -- I went to our lawyers</b></p> <p>15 <b>and was, like, Can we just discuss. I mean, can</b></p> <p>16 <b>we have a conversation with them. There's so</b></p> <p>17 <b>many mutually beneficial ways that we can still</b></p> <p>18 <b>collaborate I felt like.</b></p> <p>19 <b>So we set up a call, talked through</b></p> <p>20 <b>it, and we decided to work together. And as part</b></p> <p>21 <b>of that arrangement, we knew that their desire</b></p> <p>22 <b>was for us to not use the USA Flag brand. And at</b></p> <p>23 <b>the time we were not using it extensively, so we</b></p> <p>24 <b>agreed to just kind of table it for a year until</b></p> <p>25 <b>we figured this out.</b></p> |

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| <p style="text-align: right;">297</p> <p>1 called him, we figured it out, but we haven't had<br/> 2 any issue since then. But Izell's claiming that,<br/> 3 like, he's has all these issues with us.<br/> 4 He might have made a claim that,<br/> 5 like, he's tried to communicate. I don't know.<br/> 6 So I think I was just sending it to Troy and then<br/> 7 be like, look, I -- we've done all we can, this<br/> 8 is the last communication I had. That's all I<br/> 9 can think of.<br/> 10 Q. So on page 7414, Izell says:<br/> 11 (As read) If you want to continue any<br/> 12 conversations with us moving forward, I would<br/> 13 advise you to not go down the path of being<br/> 14 disruptive, and then ahead of that is: Travis,<br/> 15 be careful!<br/> 16 A. Yes.<br/> 17 Q. Is this the message that you got that<br/> 18 led to the conversation about NAIA?<br/> 19 A. Yes.<br/> 20 Q. Take a look at Exhibit Number 65,<br/> 21 please. That should be in your stack.<br/> 22 A. Yeah, I already have it.<br/> 23 Q. This is an email from Charles to<br/> 24 Nicole, Steve, Curt, and you. And I'm focused<br/> 25 on: (As read) I'd like for Curt to ask Troy and</p> | <p style="text-align: right;">299</p> <p>1 Q. And door number two was working with<br/> 2 the NFL on adult flag tournaments?<br/> 3 A. Yes.<br/> 4 Q. And for that you had asked the NFL to<br/> 5 pay you the amounts in the revised partnership<br/> 6 budgets that you looked at today?<br/> 7 A. Yes.<br/> 8 Q. Take a look at Number 67. This is --<br/> 9 so between the -- the last email we looked at was<br/> 10 October 10th. After October 10th, was that the<br/> 11 time that you kind of said you guys were waiting<br/> 12 and hoping to maybe connect with Izell, but<br/> 13 nothing else was really happening in the NFL. Is<br/> 14 that right?<br/> 15 A. Yes, ma'am, that would be the time.<br/> 16 Q. Okay. So in Exhibit 67, Curtis sends<br/> 17 an email message to Roman Oben saying: It is our<br/> 18 assumption that this will not move forward, and<br/> 19 that's referring to the FFWCT/USA Flag Football<br/> 20 Proposal.<br/> 21 Do you see that?<br/> 22 A. Yes.<br/> 23 Q. And you agree that this message that<br/> 24 was sent by Curtis to Roman was something that<br/> 25 was drafted and reviewed by you and Chuck and</p> |
| <p style="text-align: right;">298</p> <p>1 Roman if there is an opportunity to move forward,<br/> 2 without using the NFL marks or name, to further<br/> 3 expand the sport on the adult space that they<br/> 4 still support if the NFL Flag avenue doesn't pan<br/> 5 out due to Izell.<br/> 6 Do you see that?<br/> 7 A. Yes, ma'am.<br/> 8 Q. And I think we have discussed in<br/> 9 detail today what "due to Izell" might mean.<br/> 10 Do you agree?<br/> 11 A. Yes.<br/> 12 Q. And at this point in October of 2022,<br/> 13 was there an understanding by you and Chuck that<br/> 14 it was possible that the NFL Flag avenue and<br/> 15 therefore the NFL deal might not pan out due to<br/> 16 Izell?<br/> 17 A. Yes, I believe we thought -- both<br/> 18 believed that might be a possibility.<br/> 19 Q. Is that, in fact, what happened?<br/> 20 A. Is what, in fact -- like, did this<br/> 21 happen or asking? Or what do you mean?<br/> 22 Q. Did the NFL Flag avenue not pan out<br/> 23 due to Izell?<br/> 24 A. The door number two was closed due to<br/> 25 Izell at that time, yes, as far as we know.</p>  | <p style="text-align: right;">300</p> <p>1 Steve before it sent -- was sent?<br/> 2 A. Yes. We'd -- he had run it by us<br/> 3 first.<br/> 4 Q. And did it accurately reflect at that<br/> 5 time, November 17th of 2022, your assumption that<br/> 6 the collaboration with the NFL would not move<br/> 7 forward?<br/> 8 A. I believe so.<br/> 9 Q. Okay. If you'd take a look at<br/> 10 Exhibit Number 70. Were there any more<br/> 11 conversations with the NFL since this?<br/> 12 A. Since this?<br/> 13 Q. Sorry. Since the last -- since<br/> 14 Curtis sent this email to Roman that says, We<br/> 15 understand this will not move forward, have you<br/> 16 heard or spoken from anybody in NFL ops since<br/> 17 then?<br/> 18 A. I don't believe so directly from the<br/> 19 ops, no.<br/> 20 Q. Have you spoken to anybody at the<br/> 21 NFL?<br/> 22 A. I don't believe so.<br/> 23 Q. Exhibit Number 70 is CH 69. This is<br/> 24 one of a series of emails that were provided to<br/> 25 us about the Tampa -- the upcoming Tampa</p>   |

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| <p>301</p> <p>1 tournament that would have taken place in January<br/>2 of 2023.<br/>3 Do you agree with that?<br/>4 <b>A. Yes.</b><br/>5 Q. And they're between Curtis, Chuck,<br/>6 Nicole, Steve, you, and then Steve's intern;<br/>7 right?<br/>8 <b>A. Yes.</b><br/>9 Q. Okay. And I want to look at the<br/>10 first email at the top that's from Curtis to the<br/>11 rest of the group where you-all are talking about<br/>12 let's come up with a list of people that we would<br/>13 like to come and see our events. And then you're<br/>14 talking through if -- if we can get them to come,<br/>15 what will we do with them, you know, probably<br/>16 want to show them a good time; right?<br/>17 <b>A. Right.</b><br/>18 Q. Okay. And Curtis says on his list of<br/>19 things to do, hit on some of the things they had<br/>20 concerns about.<br/>21 Do you see that?<br/>22 <b>A. I do.</b><br/>23 Q. So I take that to mean that<br/>24 Mr. Hollomon was suggesting that if you could get<br/>25 people from the NFL out to the event in January</p>  | <p>303</p> <p>1 MR. HAYNES: I think we've been going<br/>2 about an hour and a half.<br/>3 MS. RICCHIUTO: Okay. That's fine.<br/>4 MR. HAYNES: This is a decent<br/>5 stopping place.<br/>6 MS. RICCHIUTO: Sure. Go off the<br/>7 record.<br/>8 THE VIDEOGRAPHER: We're going off<br/>9 the record. The time is 3:21 p.m.<br/>10 (Break from 3:20 p.m. to 3:38 p.m.)<br/>11 VIDEOGRAPHER: All right. The time<br/>12 is 3:38 p.m. We're back on the record.<br/>13 Q. (BY MS. RICCHIUTO) Okay. Travis,<br/>14 can you go ahead and take a look at Exhibit<br/>15 Number 68 in your pile. This is the lawsuit that<br/>16 you and FFWCT and USA Flag filed against<br/>17 USA Football.<br/>18 <b>A. Okay.</b><br/>19 Q. Is there a reason why you are an<br/>20 individual plaintiff in this lawsuit?<br/>21 <b>A. I don't know that there was a<br/>22 specific reason other than Charles was not named<br/>23 in the suit against us, and I didn't want to<br/>24 bring him into anything specifically. And we<br/>25 represent our country -- I mean, our company</b></p> |
| <p>302</p> <p>1 of '23, you could hit on some of the things they<br/>2 had concerns about while they were there in<br/>3 person.<br/>4 <b>A. Right.</b><br/>5 Q. What would that have been?<br/>6 <b>A. Their concerns? The NFL's?</b><br/>7 Q. Yeah. How would you -- like, what<br/>8 did he have in mind there or how would you<br/>9 understand that you would hit on concerns when<br/>10 you had them there in January 2023 if they were<br/>11 to attend?<br/>12 MR. HAYNES: Objection. Form.<br/>13 <b>A. I don't know for sure what those<br/>14 concerns would have been, unless they're possibly<br/>15 the ones we've already mentioned. I don't<br/>16 have any -- I don't know for sure.</b><br/>17 Q. Did you write him back and say, What<br/>18 do you mean? Nobody has concerns about us.<br/>19 <b>A. If we did, it would be in here. I<br/>20 don't remember.</b><br/>21 Q. Okay. So as you sit here today, you<br/>22 don't know what he means by have the people from<br/>23 the NFL come and then you can hit on some of the<br/>24 things they had concerns about?<br/>25 <b>A. I -- I don't know, no.</b></p> | <p>304</p> <p>1 <b>pretty equally otherwise. I don't know.</b><br/>2 Q. Okay. But in terms of -- so that<br/>3 explains why there's no Charles.<br/>4 Was there a particular reason why you<br/>5 wanted to be an individual plaintiff here?<br/>6 <b>A. No.</b><br/>7 Q. It was because you were named<br/>8 individually in the other case?<br/>9 <b>A. I suppose. I really don't know,<br/>10 yeah.</b><br/>11 Q. Okay. I'm -- I want to try not to<br/>12 talk about things that we've talked about a whole<br/>13 bunch.<br/>14 Yesterday Charles said that you-all<br/>15 sued USA Football after they started to badger<br/>16 you and come after you.<br/>17 <b>A. Is that what he said?</b><br/>18 Q. That is what he said.<br/>19 <b>A. Okay.</b><br/>20 Q. With different words, my impression<br/>21 today is that your view is similar to that.<br/>22 Is that fair?<br/>23 <b>A. I think we had a similar experience.<br/>24 I don't know that that's -- I wouldn't classify<br/>25 that to me is why I thought we sued USA Football,</b></p>                  |



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| <p>305</p> <p>1 <b>no. But those extrinsics happening probably</b></p> <p>2 <b>contributed to it, in our opinion.</b></p> <p>3 Q. And we've talked about the reasons</p> <p>4 why you've already sued?</p> <p>5 <b>A. Yes, ma'am.</b></p> <p>6 Q. Okay. Let's take a look at a few</p> <p>7 allegations in the complaint. I'm assuming you</p> <p>8 did not write this, but you tell me if that's not</p> <p>9 correct.</p> <p>10 <b>A. I would assume that's a safe</b></p> <p>11 <b>assumption.</b></p> <p>12 Q. You've may get into complaint writing</p> <p>13 instead of blogs or something.</p> <p>14 <b>A. Well, maybe I'll -- I'll look into</b></p> <p>15 <b>it. But now at this one -- at this point in</b></p> <p>16 <b>time, I have not gotten into it yet.</b></p> <p>17 Q. Okay. In paragraph 10 -- no,</p> <p>18 page 10 -- I'm sorry -- page 10, paragraph 25.</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. And I want you to read the whole</p> <p>21 sentence, if you want to. I'm focused on the</p> <p>22 first sentence that -- that alleges that FFWCT</p> <p>23 does not make representations that it is the</p> <p>24 national governing body for football in the</p> <p>25 United States.</p> | <p>307</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Have you told me all the reasons that</p> <p>3 that contract appeared in reach for USA Flag?</p> <p>4 <b>A. I believe so.</b></p> <p>5 Q. (As read) Yet the NFL Operations Team</p> <p>6 pivoted and informed Plaintiff that because of</p> <p>7 Defendants USA Football's purported status as</p> <p>8 the national governing body for football,</p> <p>9 including flag football in the United States,</p> <p>10 USA Football was the necessary party to such a</p> <p>11 contract and that the NFL could not work with</p> <p>12 Plaintiffs in the same capacity.</p> <p>13 Do you see that?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. The way that I read this, I get the</p> <p>16 impression that, first, the contract appeared in</p> <p>17 reach, and then there was a pivot.</p> <p>18 Do you agree that's what it says?</p> <p>19 <b>A. I believe it does there was a pivot.</b></p> <p>20 Q. Right. I think what the testimony</p> <p>21 has been was that all in the same meeting, you</p> <p>22 were told door one is not available; door two</p> <p>23 seems promising.</p> <p>24 Do you agree with that?</p> <p>25 <b>A. Yes.</b></p>                             |
| <p>306</p> <p>1 Do you see that?</p> <p>2 <b>A. Where it says that we -- sorry, say</b></p> <p>3 <b>that one more time.</b></p> <p>4 Q. It says basically USA Football claims</p> <p>5 to be the national governing body, and we FFWCT</p> <p>6 and USA Flag don't.</p> <p>7 Do you see that?</p> <p>8 <b>A. Does not make the representation --</b></p> <p>9 <b>yes, I see that.</b></p> <p>10 Q. Okay. And then if we go to page 11</p> <p>11 in paragraph 29, there is a description in</p> <p>12 paragraph 29 about communications with the NFL</p> <p>13 Operations Team in and during 2022.</p> <p>14 Do you see that?</p> <p>15 <b>A. Yes, ma'am.</b></p> <p>16 Q. Is -- are those the substantial</p> <p>17 amount of communications -- have we talked about</p> <p>18 all those communications today?</p> <p>19 <b>A. Yes, those -- that's what we're</b></p> <p>20 <b>speaking of.</b></p> <p>21 Q. Okay. And this says: A contract to</p> <p>22 fund Plaintiff, USA Flag, to the tune of several</p> <p>23 million dollars per year appeared in reach for</p> <p>24 Plaintiffs.</p> <p>25 Do agree with that?</p>   | <p>308</p> <p>1 Q. Okay. Set that aside at least for</p> <p>2 now, and let's take a look at Exhibit Number 77</p> <p>3 and Exhibit Number 78. They should be together</p> <p>4 in your stack.</p> <p>5 <b>A. 77 and 78. All right.</b></p> <p>6 Q. And these are not Bates numbered, but</p> <p>7 they are documents that were filed in the</p> <p>8 lawsuit, and we know that because they have that</p> <p>9 blue crawl across the top. And I'll represent to</p> <p>10 you it that was USA Football who filed them.</p> <p>11 <b>A. Okay.</b></p> <p>12 Q. Number 77 -- Exhibit 77, Chuck told</p> <p>13 me yesterday that this is from your website.</p> <p>14 Do you agree with that?</p> <p>15 <b>A. I do.</b></p> <p>16 Q. Okay. And on page 2 -- the second</p> <p>17 page of what we have in front of us, there's that</p> <p>18 highlighted language about "we declare NFL the</p> <p>19 self-appointed national governing organization."</p> <p>20 Do you see that?</p> <p>21 <b>A. I do.</b></p> <p>22 Q. Okay. And then in 78, if you want to</p> <p>23 look at them side by side, that's the same</p> <p>24 section of your website printed out a week later,</p> <p>25 but the language has changed.</p> |

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| <p>309</p> <p>1 Do you see that?</p> <p>2 A. Okay.</p> <p>3 Q. And because this is on the website,</p> <p>4 Chuck said only you could talk about it.</p> <p>5 A. Fair enough.</p> <p>6 Q. So I want to understand why</p> <p>7 there's -- what was the reason during the days</p> <p>8 between July 6th and July 13th in 2023 that you</p> <p>9 changed the language in Article 1 here?</p> <p>10 A. I mean, I believe you guys had raised</p> <p>11 concern about it, and I think we had talked about</p> <p>12 it internally, just decided that it was something</p> <p>13 that we could change and it wouldn't affect</p> <p>14 anything else that we were doing. So we were --</p> <p>15 went ahead and just -- just similar to how we had</p> <p>16 done before and made some changes if it meant</p> <p>17 appeasing somebody, that it didn't affect</p> <p>18 anything else negatively on our end.</p> <p>19 Q. Who was it supposed to appease?</p> <p>20 A. I don't remember if it was something</p> <p>21 that you guys raised or if it was in the suit or</p> <p>22 whatever, but I think we just decided that, you</p> <p>23 know, this is something that would be a -- a</p> <p>24 quick change, it doesn't really affect it. That</p> <p>25 doesn't mean that we agreed to it. We just</p> | <p>311</p> <p>1 A. Yes.</p> <p>2 Q. Now, neither of those are NGB. How</p> <p>3 long had the language -- the highlighted language</p> <p>4 in Exhibit 77 been on your website?</p> <p>5 A. We had hired a individual to write</p> <p>6 these for us. His name was Dave Ralston. It's</p> <p>7 been probably four or five years, he had written</p> <p>8 some of the rules and basically took our current</p> <p>9 rules, reformatted it, placed it in here, and we</p> <p>10 had kind of gone with most of his language for a</p> <p>11 while. I don't remember exactly when that was,</p> <p>12 but it had been several years, I believe.</p> <p>13 Q. Is there a reason why that gentleman</p> <p>14 who wrote these for you did not use the term</p> <p>15 "national governing body"?</p> <p>16 A. Probably. I don't know if that was</p> <p>17 something we directed him not to use because we</p> <p>18 were under the impression that was a official</p> <p>19 title that we didn't hold or -- or not or if he</p> <p>20 knew that himself. I don't remember having a</p> <p>21 conversation about it.</p> <p>22 Q. Okay. And then when USA Flag is</p> <p>23 referred to as the ultimate governing body, I</p> <p>24 think of "ultimate" as pretty prestigious?</p> <p>25 A. Sure.</p>                                |
| <p>310</p> <p>1 wanted to put in play so it doesn't cause any</p> <p>2 future issues if that was the problem.</p> <p>3 Q. It doesn't mean you agreed to it that</p> <p>4 you put it on your website?</p> <p>5 A. Doesn't mean we agreed to it that we</p> <p>6 changed it. Doesn't mean we agreed that it was</p> <p>7 wrong, just that it was something that we were</p> <p>8 willing to do if it meant that it would make</p> <p>9 another party happy.</p> <p>10 Q. It would make somebody happy?</p> <p>11 A. I would -- this is something that you</p> <p>12 guys put in there, so I would imagine that it</p> <p>13 would be something you guys don't want in there,</p> <p>14 so we changed it. I don't know. I don't</p> <p>15 remember what the exact reasoning was other than</p> <p>16 we decided that it was something we could change.</p> <p>17 Q. Do you remember in the complaint we</p> <p>18 just looked at, there was an allegation that</p> <p>19 USA Football calls itself the NGB and USA Flag</p> <p>20 doesn't?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And do you agree that on</p> <p>23 Exhibit 77, we've got "national governing</p> <p>24 organization" and "ultimate governing body"</p> <p>25 references; correct?</p>  | <p>312</p> <p>1 Q. Is that the connotation that it has</p> <p>2 to you?</p> <p>3 A. I just -- I think it -- I guess you</p> <p>4 could say that. It depends on how you use it. I</p> <p>5 think we were utilizing in the form of like for</p> <p>6 our forms and styles of the sport, which very few</p> <p>7 people encompass all forms and styles of the</p> <p>8 sport, that we were the governing body that</p> <p>9 encompassed all of that, and ultimate being</p> <p>10 probably the highest level that we knew of, yeah.</p> <p>11 Q. Are you aware of whether or not</p> <p>12 today, as we sit here, on your website there</p> <p>13 continue to be use of -- usage of the language in</p> <p>14 77 in other places on your website?</p> <p>15 A. I'm not -- I am not aware personally.</p> <p>16 I'm not saying that there isn't. I don't know of</p> <p>17 any that I -- I can point to, though.</p> <p>18 Q. Do you remember when you made the</p> <p>19 change to this section of your website making any</p> <p>20 other changes?</p> <p>21 A. I don't. I don't remember making any</p> <p>22 other changes other than the article changes that</p> <p>23 we already discussed. I don't -- I don't know if</p> <p>24 there -- it's possible. I don't know.</p> <p>25 Q. Okay. And you're comfortable that</p> |